



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB3728

Introduced 2/28/2007, by Rep. Michael Tryon

#### SYNOPSIS AS INTRODUCED:

225 ILCS 225/3	from Ch. 111 1/2, par. 116.303
225 ILCS 225/7	from Ch. 111 1/2, par. 116.307
225 ILCS 225/10.5	
415 ILCS 5/3.487 new	
415 ILCS 5/11	from Ch. 111 1/2, par. 1011
415 ILCS 5/12	from Ch. 111 1/2, par. 1012

Amends the Private Sewage Disposal Licensing Act and the Environmental Protection Act to prohibit the installation of surface discharging septic systems without a National Pollutant Discharge Elimination System (NPDES) permit issued by the Illinois Environmental Protection Agency. Requires the amendment of the private sewage disposal code to reflect this permit requirement. Provides that the Department of Public Health may not independently and without the participation of the Agency permit the installation by any person of a surface discharging septic system. Provides that the Advisory Commission on Private Sewage Disposal shall advise and aid the Director of Public Health in reviewing and suggesting methods of mitigating the negative impacts of existing surface discharging septic systems operating within the State. Effective June 30, 2008.

LRB095 11446 RAS 32370 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Private Sewage Disposal Licensing Act is  
5 amended by changing Sections 3, 7, and 10.5 as follows:

6 (225 ILCS 225/3) (from Ch. 111 1/2, par. 116.303)

7 Sec. 3. As used in this Act, unless the context otherwise  
8 requires:

9 (1) "Domestic Sewage" means waste water derived  
10 principally from dwellings, business or office buildings,  
11 institutions, food service establishments, and similar  
12 facilities.

13 (2) "Director" means Director of the Illinois Department of  
14 Public Health.

15 (3) "Department" means the Illinois Department of Public  
16 Health.

17 (4) "Human Wastes" means undigested food and by-products of  
18 metabolism which are passed out of the human body.

19 (5) "Person" means any individual, group of individuals,  
20 association, trust, partnership, corporation, person doing  
21 business under an assumed name, the State of Illinois or any  
22 Department thereof, or any other entity.

23 (6) "Population Equivalent" means an average waste loading

1 equivalent to that produced by one person which is defined as  
2 100 gallons per day.

3 (7) "Private Sewage Disposal System" means any sewage  
4 handling or treatment facility receiving domestic sewage from  
5 less than 15 people or population equivalent and having a  
6 ground surface discharge or any sewage handling or treatment  
7 facility receiving domestic sewage and having no ground surface  
8 discharge.

9 (8) "Private Sewage Disposal System Installation  
10 Contractor" means any person constructing, installing,  
11 repairing, modifying, or maintaining private sewage disposal  
12 systems.

13 (9) "Property Owner" means the person in whose name legal  
14 title to the real estate is recorded.

15 (10) "Waste" means either human waste or domestic sewage or  
16 both.

17 (11) "Private Sewage Disposal System Pumping Contractor"  
18 means any person who cleans or pumps waste from a private  
19 sewage disposal system or hauls or disposes of wastes removed  
20 therefrom.

21 (12) "NPDES" means the National Pollutant Discharge  
22 Elimination System.

23 (13) "Surface Discharging Septic System" means a septic  
24 system that discharges liquid waste directly or indirectly to a  
25 collection tile, a natural drainage way, or the waters of the  
26 State.

1       (14) "Waters of the State" means all intrastate and  
2       interstate bodies of water, including lakes, rivers, streams  
3       (including intermittent streams), mudflats, sandflats,  
4       wetlands, sloughs, prairie potholes, wet meadows, and any  
5       impoundment of water, and their conveyances, including  
6       ditches, cracks, crevices, and runoffs.

7       (Source: P.A. 84-670.)

8               (225 ILCS 225/7) (from Ch. 111 1/2, par. 116.307)

9       Sec. 7. (a) The Department shall promulgate and publish and  
10       may from time to time amend a private sewage disposal code  
11       which shall include minimum standards for the design,  
12       construction, materials, operation and maintenance of private  
13       sewage disposal systems, for the transportation and disposal of  
14       wastes removed therefrom and for private sewage disposal system  
15       servicing equipment. In the preparation of the private sewage  
16       disposal code, the Department may consult with and request  
17       technical assistance from other state agencies, and shall  
18       consult with other technically qualified persons and with  
19       owners and operators of such services. Such technically  
20       qualified persons shall include representatives of the real  
21       estate, development, and building industries.

22       (b) The Department is expressly prohibited from amending  
23       the private sewage disposal code by rule if there are increases  
24       in the land density requirements. Amendments that increase the  
25       land density requirements must be approved by the Illinois

1 General Assembly.

2 (c) Beginning July 15, 2008, surface discharging septic  
3 systems may not be installed by any person without a NPDES  
4 permit issued by the Illinois Environmental Protection Agency,  
5 and the private sewage disposal code must be so amended. The  
6 Department may not independently and without the participation  
7 of the Illinois Environmental Protection Agency permit the  
8 installation by any person of a surface discharging septic  
9 system.

10 (d) Except as provided in subsection (c) of this Section,  
11 before ~~Before~~ the adoption or amendment of the private sewage  
12 disposal code, the Department shall hold a public hearing with  
13 respect thereto. At least 20 days' notice for such public  
14 hearing shall be given by the Department in such manner as the  
15 Department considers adequate to bring such hearing to the  
16 attention of persons interested in such code. Notice of such  
17 public hearing shall be given by the Department to those who  
18 file a request for a notice of any such hearings.

19 (Source: P.A. 88-690, eff. 1-24-95.)

20 (225 ILCS 225/10.5)

21 Sec. 10.5. Advisory Commission.

22 (a) There is hereby created the Advisory Commission on  
23 Private Sewage Disposal, which shall consist of 17 members to  
24 be appointed from time to time by the Director. Of the initial  
25 appointments, 5 members shall be appointed to serve a one-year

1 term, 5 members to serve a 2-year term, and 7 members to serve  
2 a 3-year term. The Advisory Commission shall be comprised of at  
3 least one representative of each of the following: the Illinois  
4 Public Health Association, the Home Builders Association of  
5 Illinois, the Illinois Association of Realtors, the Illinois  
6 Environmental Protection Agency, the Illinois Environmental  
7 Health Association, the Onsite Wastewater Professionals of  
8 Illinois, Inc., the Illinois Association of Local  
9 Environmental Health Administrators, the Illinois Precast  
10 Concrete Association, the Illinois Land Improvement  
11 Contractors Association, the Illinois Soil Classifier  
12 Association, and the Illinois Onsite Wastewater Association.  
13 The Director shall appoint one member to serve as chairperson.

14 (b) The Advisory Commission shall advise and aid the  
15 Director in:

16 (1) reviewing and suggesting changes to the State code  
17 developed under Section 7, including but not limited to  
18 proposing performance-based standards for the design,  
19 construction, operation, and maintenance of private sewage  
20 disposal systems;

21 (2) propose methods for funding private sewage  
22 disposal services and for reimbursement of units of local  
23 government for expenses incurred in administering this Act  
24 as agents of the State;

25 (3) examining the need for more stringent licensing  
26 requirements under this Act, including but not limited to

1 an apprenticeship program as a condition of original  
2 licensure and the issuance of advanced skill licenses;

3 (4) developing continuing education requirements for  
4 persons licensed under this Act;

5 (5) considering the need for continuing testing  
6 programs for private sewage disposal systems;

7 (6) developing a research and development program to  
8 examine private sewage disposal issues that affect public  
9 health and examining funding options for the program;

10 (7) developing a training center to educate all persons  
11 interested in learning more about on-site sewage disposal  
12 and to work with universities to provide that education;

13 (8) developing an experimental use permit program to  
14 set criteria for testing and reviewing new systems or  
15 innovative systems or devices and to consider oversight of  
16 this program by the Advisory Commission;

17 (9) examining the need for a uniform State license to  
18 install, construct, maintain, or operate systems or to  
19 pump, haul, or dispose of septage without the need for a  
20 license from a unit of local government; ~~and~~

21 (10) reviewing and suggesting methods for mitigating  
22 the negative impacts of existing surface discharging  
23 septic systems operating throughout the State; and

24 (11) ~~(10)~~ performing other duties from time to time on  
25 the request of the Director.

26 (c) The Advisory Commission shall submit an annual report

1 to the Director regarding its findings and recommendations  
2 under subsection (b).

3 (d) Members of the Advisory Commission may be reimbursed  
4 for actual and necessary expenses incurred in the performance  
5 of their duties under this Act.

6 (e) Members of the Advisory Commission shall be immune from  
7 suit in any action based on an act performed in good faith as a  
8 member of the Advisory Commission.

9 (f) The Advisory Commission shall meet at least  
10 semi-annually.

11 (g) A State officer, department, board, agency, division,  
12 or commission or a unit of local government may provide a  
13 service to the Advisory Commission that is (1) requested by the  
14 Advisory Commission and (2) within the scope of the person's or  
15 entity's governmental functions as established by law.

16 (Source: P.A. 90-151, eff. 7-23-97.)

17 Section 10. The Environmental Protection Act is amended by  
18 changing Sections 11 and 12 and by adding Section 3.487 as  
19 follows:

20 (415 ILCS 5/3.487 new)

21 Sec. 3.487. Surface discharging septic system. "Surface  
22 discharging septic system" means a septic system that  
23 discharges liquid waste directly or indirectly to a collection  
24 tile, a natural drainage way, or the waters of the State.

1 (415 ILCS 5/11) (from Ch. 111 1/2, par. 1011)

2 Sec. 11. (a) The General Assembly finds:

3 (1) that pollution of the waters of this State constitutes  
4 a menace to public health and welfare, creates public  
5 nuisances, is harmful to wildlife, fish, and aquatic life,  
6 impairs domestic, agricultural, industrial, recreational, and  
7 other legitimate beneficial uses of water, depresses property  
8 values, and offends the senses;

9 (2) that the Federal Water Pollution Control Act, as now or  
10 hereafter amended, provides for a National Pollutant Discharge  
11 Elimination System (NPDES) to regulate the discharge of  
12 contaminants to the waters of the United States;

13 (3) that the Safe Drinking Water Act (P.L. 93-523), as  
14 amended, provides for an Underground Injection Control (UIC)  
15 program to regulate the underground injection of contaminants;

16 (4) that it would be inappropriate and misleading for the  
17 State of Illinois to issue permits to contaminant sources  
18 subject to such federal law, as well as State law, which do not  
19 contain such terms and conditions as are required by federal  
20 law, or the issuance of which is contrary to federal law;

21 (5) that the Federal Water Pollution Control Act, as now or  
22 hereafter amended, provides that NPDES permits shall be issued  
23 by the United States Environmental Protection Agency unless (a)  
24 the State is authorized by and under its law to establish and  
25 administer its own permit program for discharges into waters

1 within its jurisdiction, and (b) pursuant to such federal Act,  
2 the Administrator of the United States Environmental  
3 Protection Agency approves such State program to issue permits  
4 which will implement the provisions of such federal Act;

5 (6) that Part C of the Safe Drinking Water Act (P.L.  
6 93-523), as amended, provides that the United States  
7 Environmental Protection Agency shall implement the UIC  
8 program authorized therein unless (a) the State is authorized  
9 by and under its law to establish and administer its own UIC  
10 program, and (b) pursuant to such federal Act, the  
11 Administrator of the United States Environmental Protection  
12 Agency approves such State program which will implement the  
13 provisions of such federal Act;

14 (7) that it is in the interest of the People of the State  
15 of Illinois for the State to authorize such NPDES and UIC  
16 programs and secure federal approval thereof, and thereby to  
17 avoid the existence of duplicative, overlapping or conflicting  
18 state and federal statutory permit systems;

19 (8) that the federal requirements for the securing of such  
20 NPDES and UIC permit program approval, as set forth in the  
21 Federal Water Pollution Control Act, as now or hereafter  
22 amended, and in the Safe Drinking Water Act (P.L. 93-523), as  
23 amended, respectively, and in regulations promulgated by the  
24 Administrator of the United States Environmental Protection  
25 Agency pursuant thereto are complex and detailed, and the  
26 General Assembly cannot conveniently or advantageously set

1     forth in this Act all the requirements of such federal Act or  
2     all regulations which may be established thereunder; and

3     (9) State compliance with NPDES requires the Illinois  
4     Environmental Protection Agency to take regulatory authority  
5     over and grant permits for the installation and current  
6     operation of surface discharging septic systems.

7     (b) It is the purpose of this Title to restore, maintain  
8     and enhance the purity of the waters of this State in order to  
9     protect health, welfare, property, and the quality of life, and  
10    to assure that no contaminants are discharged into the waters  
11    of the State, as defined herein, including, but not limited to,  
12    waters to any sewage works, or into any well, or from any  
13    source within the State of Illinois, without being given the  
14    degree of treatment or control necessary to prevent pollution,  
15    or without being made subject to such conditions as are  
16    required to achieve and maintain compliance with State and  
17    federal law; and to authorize, empower, and direct the Board to  
18    adopt such regulations and the Agency to adopt such procedures  
19    as will enable the State to secure federal approval to issue  
20    NPDES permits pursuant to the provisions of the Federal Water  
21    Pollution Control Act, as now or hereafter amended, and federal  
22    regulations pursuant thereto and to authorize, empower, and  
23    direct the Board to adopt such regulations and the Agency to  
24    adopt such procedures as will enable the State to secure  
25    federal approval of the State UIC program pursuant to the  
26    provisions of Part C of the Safe Drinking Water Act (P.L.

1 93-523), as amended, and federal regulations pursuant thereto.

2 (c) The provisions of this Act authorizing implementation  
3 of the regulations pursuant to an NPDES program shall not be  
4 construed to limit, affect, impair, or diminish the authority,  
5 duties and responsibilities of the Board, Agency, Department or  
6 any other governmental agency or officer, or of any unit of  
7 local government, to regulate and control pollution of any  
8 kind, to restore, to protect or to enhance the quality of the  
9 environment, or to achieve all other purposes, or to enforce  
10 provisions, set forth in this Act or other State law or  
11 regulation.

12 (Source: P.A. 86-671.)

13 (415 ILCS 5/12) (from Ch. 111 1/2, par. 1012)

14 Sec. 12. Actions prohibited. No person shall:

15 (a) Cause or threaten or allow the discharge of any  
16 contaminants into the environment in any State so as to cause  
17 or tend to cause water pollution in Illinois, either alone or  
18 in combination with matter from other sources, or so as to  
19 violate regulations or standards adopted by the Pollution  
20 Control Board under this Act.

21 (b) Construct, install, or operate any equipment,  
22 facility, vessel, or aircraft capable of causing or  
23 contributing to water pollution, or designed to prevent water  
24 pollution, of any type designated by Board regulations, without  
25 a permit granted by the Agency, or in violation of any

1 conditions imposed by such permit.

2 (c) Increase the quantity or strength of any discharge of  
3 contaminants into the waters, or construct or install any sewer  
4 or sewage treatment facility or any new outlet for contaminants  
5 into the waters of this State, without a permit granted by the  
6 Agency.

7 (d) Deposit any contaminants upon the land in such place  
8 and manner so as to create a water pollution hazard.

9 (e) Sell, offer, or use any article in any area in which  
10 the Board has by regulation forbidden its sale, offer, or use  
11 for reasons of water pollution control.

12 (f) Cause, threaten or allow the discharge of any  
13 contaminant into the waters of the State, as defined herein,  
14 including but not limited to, waters to any sewage works, or  
15 into any well or from any point source within the State,  
16 without an NPDES permit for point source discharges issued by  
17 the Agency under Section 39(b) of this Act, or in violation of  
18 any term or condition imposed by such permit, or in violation  
19 of any NPDES permit filing requirement established under  
20 Section 39(b), or in violation of any regulations adopted by  
21 the Board or of any order adopted by the Board with respect to  
22 the NPDES program.

23 No permit shall be required under this subsection and under  
24 Section 39(b) of this Act for any discharge for which a permit  
25 is not required under the Federal Water Pollution Control Act,  
26 as now or hereafter amended, and regulations pursuant thereto.

1           For all purposes of this Act, a permit issued by the  
2 Administrator of the United States Environmental Protection  
3 Agency under Section 402 of the Federal Water Pollution Control  
4 Act, as now or hereafter amended, shall be deemed to be a  
5 permit issued by the Agency pursuant to Section 39(b) of this  
6 Act. However, this shall not apply to the exclusion from the  
7 requirement of an operating permit provided under Section  
8 13(b) (i) .

9           Compliance with the terms and conditions of any permit  
10 issued under Section 39(b) of this Act shall be deemed  
11 compliance with this subsection except that it shall not be  
12 deemed compliance with any standard or effluent limitation  
13 imposed for a toxic pollutant injurious to human health.

14           In any case where a permit has been timely applied for  
15 pursuant to Section 39(b) of this Act but final administrative  
16 disposition of such application has not been made, it shall not  
17 be a violation of this subsection to discharge without such  
18 permit unless the complainant proves that final administrative  
19 disposition has not been made because of the failure of the  
20 applicant to furnish information reasonably required or  
21 requested in order to process the application.

22           (g) Cause, threaten or allow the underground injection of  
23 contaminants without a UIC permit issued by the Agency under  
24 Section 39(d) of this Act, or in violation of any term or  
25 condition imposed by such permit, or in violation of any  
26 regulations or standards adopted by the Board or of any order

1 adopted by the Board with respect to the UIC program.

2 No permit shall be required under this subsection and under  
3 Section 39(d) of this Act for any underground injection of  
4 contaminants for which a permit is not required under Part C of  
5 the Safe Drinking Water Act (P.L. 93-523), as amended, unless a  
6 permit is authorized or required under regulations adopted by  
7 the Board pursuant to Section 13 of this Act.

8 (h) Introduce contaminants into a sewage works from any  
9 nondomestic source except in compliance with the regulations  
10 and standards adopted by the Board under this Act.

11 (i) Install a surface discharging septic system without an  
12 NPDES permit issued by the Agency under Section 39 of this Act  
13 for such installation, or in violation of any term or condition  
14 imposed by the permit, or in violation of any NPDES permit  
15 filing requirement established under Section 39 of this Act, or  
16 in violation of any regulations adopted by the Board or of any  
17 order adopted by the Board with respect to the NPDES program.

18 (Source: P.A. 92-574, eff. 6-26-02.)

19 Section 99. Effective date. This Act takes effect June 30,  
20 2008.